

[109H1946]

.....  
(Original Signature of Member)

110TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the Medicare Program.

\_\_\_\_\_  
**IN THE HOUSE OF REPRESENTATIVES**

Mr. STARK introduced the following bill; which was referred to the Committee  
on \_\_\_\_\_  
\_\_\_\_\_

**A BILL**

To amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the Medicare Program.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) IN GENERAL.—This Act may be cited as the  
5       “Medicare Mental Health Modernization Act of 2007”.

6       (b) TABLE OF CONTENTS.—The table of contents of  
7       this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ESTABLISHING PARITY FOR MENTAL HEALTH  
SERVICES

Sec. 101. Elimination of lifetime limit on inpatient mental health services.

Sec. 102. Parity in treatment for outpatient mental health services.

TITLE II—EXPANDING COVERAGE OF COMMUNITY-BASED  
MENTAL HEALTH SERVICES

Sec. 201. Coverage of intensive residential services.

Sec. 202. Coverage of intensive outpatient services.

TITLE III—IMPROVING BENEFICIARY ACCESS TO MEDICARE-  
COVERED SERVICES

Sec. 301. Excluding clinical social worker services from coverage under the Medicare skilled nursing facility prospective payment system and consolidated payment.

Sec. 302. Coverage of marriage and family therapist services.

Sec. 303. Coverage of mental health counselor services.

Sec. 304. Study of coverage criteria for Alzheimer's disease and related mental illnesses.

**1 TITLE I—ESTABLISHING PARITY**  
**2 FOR MENTAL HEALTH SERVICES**

**3 SEC. 101. ELIMINATION OF LIFETIME LIMIT ON INPATIENT**  
**4 MENTAL HEALTH SERVICES.**

**5 (a) IN GENERAL.**—Section 1812 of the Social Secu-  
**6 rity Act (42 U.S.C. 1395d) is amended—**

**7 (1) in subsection (b)—**

**8 (A) in paragraph (1), by adding “or” at**  
**9 the end;**

**10 (B) in paragraph (2), by striking “; or” at**  
**11 the end and inserting a period; and**

**12 (C) by striking paragraph (3); and**

**13 (2) by striking subsection (c).**

**14 (b) EFFECTIVE DATE.**—The amendments made by  
**15 subsection (a) shall apply to items and services furnished**  
**16 on or after January 1, 2008.**

1 **SEC. 102. PARITY IN TREATMENT FOR OUTPATIENT MEN-**  
2 **TAL HEALTH SERVICES.**

3 (a) IN GENERAL.—Section 1833 of the Social Secu-  
4 rity Act (42 U.S.C. 1395l) is amended by striking sub-  
5 section (c).

6 (b) EFFECTIVE DATE.—The amendment made by  
7 subsection (a) shall apply to items and services furnished  
8 on or after January 1, 2008.

9 **TITLE II—EXPANDING COV-**  
10 **ERAGE OF COMMUNITY-**  
11 **BASED MENTAL HEALTH**  
12 **SERVICES**

13 **SEC. 201. COVERAGE OF INTENSIVE RESIDENTIAL SERV-**  
14 **ICES.**

15 (a) COVERAGE UNDER PART A.—Section 1812(a) of  
16 the Social Security Act (42 U.S.C. 1395d(a)) is amend-  
17 ed—

18 (1) in paragraph (4), by striking “and” at the  
19 end;

20 (2) in paragraph (5), by striking the period at  
21 the end and inserting “; and”; and

22 (3) by adding at the end the following new  
23 paragraph:

24 “(6) intensive residential services (as defined in  
25 section 1861(ccc)) furnished to an individual for up  
26 to 120 days during any calendar year, except that

1       such services may be furnished to the individual for  
2       additional days (not to exceed 20 days) during the  
3       year if necessary for the individual to complete a  
4       course of treatment.”.

5       (b) SERVICES DESCRIBED.—Section 1861 of the So-  
6       cial Security Act (42 U.S.C. 1395x) is amended by adding  
7       at the end the following new subsection:

8       “(ccc) INTENSIVE RESIDENTIAL SERVICES.—(1)  
9       Subject to paragraphs (3) and (4), the term ‘intensive res-  
10       idential services’ means a program of residential services  
11       (described in paragraph (2)) that is—

12               “(A) prescribed by a physician for an individual  
13       entitled to, or enrolled for, benefits under part A  
14       who is under the care of the physician; and

15               “(B) furnished under the supervision of a phy-  
16       sician pursuant to an individualized, written plan of  
17       treatment established and periodically reviewed by a  
18       physician (in consultation with appropriate staff par-  
19       ticipating in such services), which plan sets forth—

20                       “(i) the individual’s diagnosis,

21                       “(ii) the type, amount, frequency, and du-  
22       ration of the items and services provided under  
23       the plan, and

24                       “(iii) the goals for treatment under the  
25       plan.

1 In the case of such an individual who is receiving qualified  
2 psychologist services (as defined in subsection (ii)), the in-  
3 dividual may be under the care of the clinical psychologist  
4 with respect to such services under this subsection to the  
5 extent permitted under State law.

6 “(2) The program of residential services described in  
7 this paragraph is a nonhospital-based community residen-  
8 tial program that furnishes acute mental health services  
9 or substance abuse services, or both, on a 24-hour basis.  
10 Such services shall include treatment planning and devel-  
11 opment, medication management, case management, crisis  
12 intervention, individual therapy, group therapy, and de-  
13 toxification services. Such services shall be furnished in  
14 any of the following facilities:

15 “(A) Crisis residential programs or mental ill-  
16 ness residential treatment programs.

17 “(B) Therapeutic family or group treatment  
18 homes.

19 “(C) Residential detoxification centers.

20 “(D) Residential centers for substance abuse  
21 treatment.

22 “(3) No service may be treated as an intensive resi-  
23 dential service under paragraph (1) unless the facility at  
24 which the service is provided—

1           “(A) is legally authorized to provide such serv-  
2           ice under the law of the State (or under a State reg-  
3           ulatory mechanism provided by State law) in which  
4           the facility is located or meets such certification re-  
5           quirements that the Secretary may impose; and

6           “(B) meets such other requirements as the Sec-  
7           retary may impose to assure the quality of the inten-  
8           sive residential services provided.

9           “(4) No service may be treated as an intensive resi-  
10          dential service under paragraph (1) unless the service is  
11          furnished in accordance with standards established by the  
12          Secretary for the management of such services.”.

13          (c) AMOUNT OF PAYMENT.—Section 1814 of the So-  
14          cial Security Act (42 U.S.C. 1395f) is amended—

15               (1) in subsection (b), in the matter preceding  
16               paragraph (1), by inserting “other than intensive  
17               residential services,” after “hospice care,”; and

18               (2) by adding at the end the following new sub-  
19               section:

20          “(m) PAYMENT FOR INTENSIVE RESIDENTIAL SERV-  
21          ICES.—(1) The amount of payment under this part for  
22          intensive residential services under section 1812(a)(6)  
23          shall be equal to an amount specified under a prospective  
24          payment system established by the Secretary, taking into  
25          account the prospective payment system established for

1 psychiatric hospitals pursuant to section 124 of the Medi-  
2 care, Medicaid, and SCHIP Balanced Budget Refinement  
3 Act of 1999 (113 Stat. 1501A–332), as enacted into law  
4 by section 1000(a)(6) of Public Law 106–113.

5 “(2) Prior to the date on which the Secretary imple-  
6 ments the prospective payment system established under  
7 paragraph (1), the amount of payment under this part for  
8 such intensive residential services is the reasonable costs  
9 of providing such services.”.

10 (d) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to items and services furnished on  
12 or after January 1, 2008.

13 **SEC. 202. COVERAGE OF INTENSIVE OUTPATIENT SERV-**  
14 **ICES.**

15 (a) COVERAGE.—Section 1832(a)(2) of the Social Se-  
16 curity Act (42 U.S.C. 1395k(a)(2)) is amended—

17 (1) in subparagraph (I), by striking “and” at  
18 the end;

19 (2) in subparagraph (J), by striking the period  
20 at the end and inserting “; and”; and

21 (3) by adding at the end the following new sub-  
22 paragraph:

23 “(K) intensive outpatient services (as de-  
24 scribed in section 1861(ddd)).”.

1 (b) SERVICES DESCRIBED.—Section 1861 of the So-  
2 cial Security Act (42 U.S.C. 1395x), as amended by sec-  
3 tion 201(b), is amended by adding at the end the following  
4 new subsection:

5 “(ddd) INTENSIVE OUTPATIENT SERVICES.—(1) The  
6 term ‘intensive outpatient services’ means the items and  
7 services described in paragraph (2) prescribed by a physi-  
8 cian and provided within the context described in para-  
9 graph (3) under the supervision of a physician (or, to the  
10 extent permitted under the law of the State in which the  
11 services are furnished, a non-physician mental health pro-  
12 fessional) pursuant to an individualized, written plan of  
13 treatment that is established by a physician and periodi-  
14 cally reviewed by a physician or, to the extent permitted  
15 under the laws of the State in which the services are fur-  
16 nished, a non-physician mental health professional (in con-  
17 sultation with appropriate staff participating in such serv-  
18 ices), which plan sets forth the patient’s diagnosis, the  
19 type, amount, frequency, and duration of the items and  
20 services provided under the plan, and the goals for treat-  
21 ment under the plan.

22 “(2)(A) The items and services described in this  
23 paragraph are the items and services described in sub-  
24 paragraph (B) that are reasonable and necessary for the  
25 diagnosis or treatment of the individual’s condition, rea-

1 sonably expected to improve or maintain the individual's  
2 condition and functional level and to prevent relapse or  
3 hospitalization, and furnished pursuant to such guidelines  
4 relating to frequency and duration of services as the Sec-  
5 retary shall by regulation establish (taking into account  
6 accepted norms of clinical practice).

7 “(B) For purposes of subparagraph (A), the items  
8 and services described in this paragraph are as follows:

9 “(i) Psychiatric rehabilitation.

10 “(ii) Assertive community treatment.

11 “(iii) Intensive case management.

12 “(iv) Day treatment for individuals under 21  
13 years of age.

14 “(v) Ambulatory detoxification.

15 “(vi) Such other items and services as the Sec-  
16 retary may provide (but in no event to include meals  
17 and transportation).

18 “(3) The context described in this paragraph for the  
19 provision of intensive outpatient services is as follows:

20 “(A) Such services are furnished in a facility,  
21 home, or community setting.

22 “(B) Such services are furnished—

23 “(i) to assist the individual to compensate  
24 for, or eliminate, functional deficits and inter-

1 personal and environmental barriers created by  
2 the disability; and

3 “(ii) to restore skills to the individual for  
4 independent living, socialization, and effective  
5 life management.

6 “(C) Such services are furnished by an indi-  
7 vidual or entity that—

8 “(i) is legally authorized to furnish such  
9 services under State law (or the State regu-  
10 latory mechanism provided by State law) or  
11 meets such certification requirements that the  
12 Secretary may impose; and

13 “(ii) meets such other requirements as the  
14 Secretary may impose to assure the quality of  
15 the intensive outpatient services provided.”.

16 (c) PAYMENT.—

17 (1) IN GENERAL.—With respect to intensive  
18 outpatient services (as defined in section  
19 1861(ddd)(1) of the Social Security Act (as added  
20 by subsection (b)) furnished under the medicare pro-  
21 gram, the amount of payment under such Act for  
22 such services shall be 80 percent of—

23 (A) during 2008 and 2009, the reasonable  
24 costs of furnishing such services; and

1 (B) on or after January 1, 2010, the  
2 amount of payment established for such serv-  
3 ices under the prospective payment system es-  
4 tablished by the Secretary under paragraph (2)  
5 for such services.

6 (2) ESTABLISHMENT OF PPS.—

7 (A) IN GENERAL.—With respect to inten-  
8 sive outpatient services (as defined in section  
9 1861(ddd)(1)) of the Social Security Act (as  
10 added by subsection (b)) furnished under the  
11 medicare program on or after January 1, 2010,  
12 the Secretary of Health and Human Services  
13 (in this paragraph referred to as the “Sec-  
14 retary”) shall establish a prospective payment  
15 system for payment for such services. Such sys-  
16 tem shall include an adequate patient classifica-  
17 tion system that reflects the differences in pa-  
18 tient resource use and costs and shall provide  
19 for an annual update to the rates of payment  
20 established under the system.

21 (B) ADJUSTMENTS.—In establishing the  
22 system under subparagraph (A), the Secretary  
23 shall provide for adjustments in the prospective  
24 payment amount for variations in wage and

1 wage-related costs, case mix, and such other  
2 factors as the Secretary determines appropriate.

3 (C) COLLECTION OF DATA AND EVALUA-  
4 TION.—In developing the system described in  
5 subparagraph (A), the Secretary may require  
6 providers of services under the medicare pro-  
7 gram to submit such information to the Sec-  
8 retary as the Secretary may require to develop  
9 the system, including the most recently avail-  
10 able data.

11 (D) REPORTS TO CONGRESS.—Not later  
12 than October 1 of each of 2008 and 2009, the  
13 Secretary shall submit to Congress a report on  
14 the progress of the Secretary in establishing the  
15 prospective payment system under this para-  
16 graph.

17 (d) CONFORMING AMENDMENTS.—(1) Section  
18 1835(a)(2) of the Social Security Act (42 U.S.C.  
19 1395n(a)(2)) is amended—

20 (A) in subparagraph (E), by striking “and” at  
21 the end;

22 (B) in subparagraph (F), by striking the period  
23 at the end and inserting “; and”; and

24 (C) by inserting after subparagraph (F) the fol-  
25 lowing new subparagraph:

1           “(G) in the case of intensive outpatient  
2           services, (i) that those services are reasonably  
3           expected to improve or maintain the individual’s  
4           condition and functional level and to prevent re-  
5           lapse or hospitalization, (ii) an individualized,  
6           written plan for furnishing such services has  
7           been established by a physician and is reviewed  
8           periodically by a physician or, to the extent per-  
9           mitted under the laws of the State in which the  
10          services are furnished, a non-physician mental  
11          health professional, and (iii) such services are  
12          or were furnished while the individual is or was  
13          under the care of a physician or, to the extent  
14          permitted under the law of the State in which  
15          the services are furnished, a non-physician men-  
16          tal health professional.”.

17          (2) Section 1861(s)(2)(B) of the Social Security Act  
18          (42 U.S.C. 1395x(s)(2)(B)) is amended by inserting “and  
19          intensive outpatient services” after “partial hospitalization  
20          services”.

21          (3) Section 1861(ff)(1) of the Social Security Act (42  
22          U.S.C. 1395x(ff)(1)) is amended—

23                 (A) by inserting “or, to the extent permitted  
24                 under the law of the State in which the services are  
25                 furnished, a non-physician mental health profes-

1       sional,” after “under the supervision of a physician”  
2       and after “periodically reviewed by a physician”; and  
3       (B) by striking “physician’s” and inserting “pa-  
4       tient’s”.

5       (4) Section 1861(cc) of the Social Security Act (42  
6 U.S.C. 1395x(cc)) is amended—

7           (A) in paragraph (1), in the matter preceding  
8       subparagraph (A), by striking “physician—” and in-  
9       serting “physician or, to the extent permitted under  
10      the law of the State in which the services are fur-  
11      nished, a non-physician mental health professional—  
12      ”; and

13          (B) in paragraph (2)(E), by inserting before  
14      the semicolon at the end the following: “, except that  
15      a patient receiving social and psychological services  
16      under paragraph (1)(D) may be under the care of  
17      a non-physician mental health professional with re-  
18      spect to such services to the extent permitted under  
19      the law of the State in which the services are fur-  
20      nished”.

21      (e) EFFECTIVE DATE.—The amendments made by  
22      this section shall apply to items and services furnished on  
23      or after January 1, 2008.

1 **TITLE III—IMPROVING BENE-**  
2 **FICIARY ACCESS TO MEDI-**  
3 **CARE-COVERED SERVICES**

4 **SEC. 301. EXCLUDING CLINICAL SOCIAL WORKER SERVICES**  
5 **FROM COVERAGE UNDER THE MEDICARE**  
6 **SKILLED NURSING FACILITY PROSPECTIVE**  
7 **PAYMENT SYSTEM AND CONSOLIDATED PAY-**  
8 **MENT.**

9 (a) IN GENERAL.—Section 1888(e)(2)(A)(ii) of the  
10 Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)) is  
11 amended by inserting “clinical social worker services,”  
12 after “qualified psychologist services,”.

13 (b) CONFORMING AMENDMENT.—Section  
14 1861(hh)(2) of the Social Security Act (42 U.S.C.  
15 1395x(hh)(2)) is amended by striking “and other than  
16 services furnished to an inpatient of a skilled nursing facil-  
17 ity which the facility is required to provide as a require-  
18 ment for participation”.

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to items and services furnished on  
21 or after January 1, 2008.

1   **SEC. 302. COVERAGE OF MARRIAGE AND FAMILY THERA-**  
2                   **PIST SERVICES.**

3           (a) COVERAGE OF SERVICES.—Section 1861(s)(2) of  
4 the Social Security Act (42 U.S.C. 1395x(s)(2)) is amend-  
5 ed—

6               (1) in subparagraph (Z), by striking “and” at  
7 the end;

8               (2) in subparagraph (AA), by adding “and” at  
9 the end; and

10              (3) by adding at the end the following new sub-  
11 paragraph:

12              “(BB) marriage and family therapist services  
13 (as defined in subsection (eee));”.

14           (b) DEFINITION.—Section 1861 of the Social Secu-  
15 rity Act (42 U.S.C. 1395x), as amended by sections  
16 201(b) and 202(b), is amended by adding at the end the  
17 following new subsection:

18              “(eee) MARRIAGE AND FAMILY THERAPIST SERV-  
19 ICES.—(1) The term ‘marriage and family therapist serv-  
20 ices’ means services performed by a marriage and family  
21 therapist (as defined in paragraph (2)) for the diagnosis  
22 and treatment of mental illnesses, which the marriage and  
23 family therapist is legally authorized to perform under  
24 State law (or the State regulatory mechanism provided by  
25 State law) of the State in which such services are per-  
26 formed, provided such services are covered under this title,

1 as would otherwise be covered if furnished by a physician  
2 or as incident to a physician's professional service, but  
3 only if no facility or other provider charges or is paid any  
4 amounts with respect to the furnishing of such services.

5 “(2) The term ‘marriage and family therapist’ means  
6 an individual who—

7 “(A) possesses a master's or doctoral degree  
8 which qualifies for licensure or certification as a  
9 marriage and family therapist pursuant to State  
10 law;

11 “(B) after obtaining such degree has performed  
12 at least 2 years of clinical supervised experience in  
13 marriage and family therapy; and

14 “(C) is licensed or certified as a marriage and  
15 family therapist in the State in which marriage and  
16 family therapist services are performed.”.

17 (c) PROVISION FOR PAYMENT UNDER PART B.—Sec-  
18 tion 1832(a)(2)(B) of the Social Security Act (42 U.S.C.  
19 1395k(a)(2)(B)) is amended by adding at the end the fol-  
20 lowing new clause:

21 “(v) marriage and family therapist  
22 services;”.

23 (d) AMOUNT OF PAYMENT.—

1           (1) IN GENERAL.—Section 1833(a)(1) of the  
2       Social Security Act (42 U.S.C. 1395l(a)(1)) is  
3       amended—

4                     (A) by striking “and” before “(V)”; and

5                     (B) by inserting before the semicolon at  
6       the end the following: “, and (W) with respect  
7       to marriage and family therapist services under  
8       section 1861(s)(2)(BB), the amounts paid shall  
9       be 80 percent of the lesser of (i) the actual  
10      charge for the services or (ii) 75 percent of the  
11      amount determined for payment of a psycholo-  
12      gist under subparagraph (L)”.

13          (2) DEVELOPMENT OF CRITERIA WITH RE-  
14      SPECT TO CONSULTATION WITH A PHYSICIAN.—The  
15      Secretary of Health and Human Services shall, tak-  
16      ing into consideration concerns for patient confiden-  
17      tiality, develop criteria with respect to payment for  
18      marriage and family therapist services for which  
19      payment may be made directly to the marriage and  
20      family therapist under part B of title XVIII of the  
21      Social Security Act (42 U.S.C. 1395j et seq.) under  
22      which such a therapist must agree to consult with a  
23      patient’s attending or primary care physician in ac-  
24      cordance with such criteria.

1 (e) EXCLUSION OF MARRIAGE AND FAMILY THERA-  
2 PIST SERVICES FROM SKILLED NURSING FACILITY PRO-  
3 SPECTIVE PAYMENT SYSTEM.—Section 1888(e)(2)(A)(ii)  
4 of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)),  
5 as amended in section 301(a), is amended by inserting  
6 “marriage and family therapist services (as defined in sub-  
7 section (eee)(1)),” after “clinical social worker services,”.

8 (f) COVERAGE OF MARRIAGE AND FAMILY THERA-  
9 PIST SERVICES PROVIDED IN RURAL HEALTH CLINICS  
10 AND FEDERALLY QUALIFIED HEALTH CENTERS.—Sec-  
11 tion 1861(aa)(1)(B) of the Social Security Act (42 U.S.C.  
12 1395x(aa)(1)(B)) is amended by striking “or by a clinical  
13 social worker (as defined in subsection (hh)(1)),” and in-  
14 serting “, by a clinical social worker (as defined in sub-  
15 section (hh)(1)), or by a marriage and family therapist  
16 (as defined in subsection (eee)(2)),”.

17 (g) INCLUSION OF MARRIAGE AND FAMILY THERA-  
18 PISTS AS PRACTITIONERS FOR ASSIGNMENT OF  
19 CLAIMS.—Section 1842(b)(18)(C) of the Social Security  
20 Act (42 U.S.C. 1395u(b)(18)(C)) is amended by adding  
21 at the end the following new clause:

22 “(vii) A marriage and family therapist (as de-  
23 fined in section 1861(eee)(2)).”.

1 (h) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to items and services furnished on  
3 or after January 1, 2008.

4 **SEC. 303. COVERAGE OF MENTAL HEALTH COUNSELOR**  
5 **SERVICES.**

6 (a) COVERAGE OF SERVICES.—Section 1861(s)(2) of  
7 the Social Security Act (42 U.S.C. 1395x(s)(2)), as  
8 amended in section 302(a), is amended—

9 (1) in subparagraph (AA), by striking “and” at  
10 the end;

11 (2) in subparagraph (BB), by inserting “and”  
12 at the end; and

13 (3) by adding at the end the following new sub-  
14 paragraph:

15 “(CC) mental health counselor services (as  
16 defined in subsection (fff)(2));”.

17 (b) DEFINITION.—Section 1861 of the Social Secu-  
18 rity Act (42 U.S.C. 1395x), as amended by sections  
19 201(b), 202(b), and 302(b), is amended by adding at the  
20 end the following new subsection:

21 “(fff) MENTAL HEALTH COUNSELOR; MENTAL  
22 HEALTH COUNSELOR SERVICES.—(1) The term ‘mental  
23 health counselor’ means an individual who—

24 “(A) possesses a master’s or doctor’s degree in  
25 mental health counseling or a related field;

1           “(B) after obtaining such a degree has per-  
2           formed at least 2 years of supervised mental health  
3           counselor practice; and

4           “(C) is licensed or certified as a mental health  
5           counselor or professional counselor by the State in  
6           which the services are performed.

7           “(2) The term ‘mental health counselor services’  
8           means services performed by a mental health counselor (as  
9           defined in paragraph (1)) for the diagnosis and treatment  
10          of mental illnesses which the mental health counselor is  
11          legally authorized to perform under State law (or the  
12          State regulatory mechanism provided by the State law) of  
13          the State in which such services are performed, provided  
14          such services are covered under this title, as would other-  
15          wise be covered if furnished by a physician or as incident  
16          to a physician’s professional service, but only if no facility  
17          or other provider charges or is paid any amounts with re-  
18          spect to the furnishing of such services.”.

19          (c) PAYMENT.—

20                 (1) IN GENERAL.—Section 1833(a)(1) of the  
21          Social Security Act (42 U.S.C. 1395l(a)(1)), as  
22          amended by section 302(d), is amended—

23                         (A) by striking “and” before “(W)”;

24                         (B) by inserting before the semicolon at  
25          the end the following: “, and (X) with respect

1 to mental health counselor services under sec-  
2 tion 1861(s)(2)(CC), the amounts paid shall be  
3 80 percent of the lesser of (i) the actual charge  
4 for the services or (ii) 75 percent of the amount  
5 determined for payment of a psychologist under  
6 subparagraph (L)’’.

7 (2) DEVELOPMENT OF CRITERIA WITH RE-  
8 SPECT TO CONSULTATION WITH A PHYSICIAN.—The  
9 Secretary of Health and Human Services shall, tak-  
10 ing into consideration concerns for patient confiden-  
11 tiality, develop criteria with respect to payment for  
12 mental health counselor services for which payment  
13 may be made directly to the mental health counselor  
14 under part B of title XVIII of the Social Security  
15 Act (42 U.S.C. 1395j et seq.) under which such a  
16 counselor must agree to consult with a patient’s at-  
17 tending or primary care physician in accordance  
18 with such criteria.

19 (d) EXCLUSION OF MENTAL HEALTH COUNSELOR  
20 SERVICES FROM SKILLED NURSING FACILITY PROSPEC-  
21 TIVE PAYMENT SYSTEM.—Section 1888(e)(2)(A)(ii) of  
22 the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)),  
23 as amended by sections 301(a) and 302(e), is amended  
24 by inserting “mental health counselor services (as defined

1 in section 1861(fff)(2)),” after “marriage and family ther-  
2 apist services (as defined in subsection (eee)(1)),”.

3 (e) COVERAGE OF MENTAL HEALTH COUNSELOR  
4 SERVICES PROVIDED IN RURAL HEALTH CLINICS AND  
5 FEDERALLY QUALIFIED HEALTH CENTERS.—Section  
6 1861(aa)(1)(B) of the Social Security Act (42 U.S.C.  
7 1395x(aa)(1)(B)), as amended by section 302(f), is  
8 amended—

9 (1) by striking “or by a marriage” and insert-  
10 ing “by a marriage”; and

11 (2) by inserting “or a mental health counselor  
12 (as defined in subsection (fff)(1)),” after “marriage  
13 and family therapist (as defined in subsection  
14 (eee)(2)),”.

15 (f) INCLUSION OF MENTAL HEALTH COUNSELORS AS  
16 PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section  
17 1842(b)(18)(C) of the Social Security Act (42 U.S.C.  
18 1395u(b)(18)(C)), as amended by section 302(g), is  
19 amended by adding at the end the following new clause:

20 “(viii) A mental health counselor (as defined in  
21 section 1861(fff)(1)).”.

22 (g) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to items and services furnished on  
24 or after January 1, 2008.

1 **SEC. 304. STUDY OF COVERAGE CRITERIA FOR ALZ-**  
2 **HEIMER'S DISEASE AND RELATED MENTAL**  
3 **ILLNESSES.**

4 (a) STUDY.—

5 (1) IN GENERAL.—The Secretary of Health and  
6 Human Services (in this section referred to as the  
7 “Secretary”) shall conduct a study to determine  
8 whether the criteria for coverage of any therapy  
9 service (including occupational therapy services and  
10 physical therapy services) or any outpatient mental  
11 health care service under the medicare program  
12 under title XVIII of the Social Security Act (42  
13 U.S.C. 1395 et seq.) unduly restricts the access of  
14 any medicare beneficiary who has been diagnosed  
15 with Alzheimer’s disease or a related mental illness  
16 to such a service because the coverage criteria re-  
17 quires the medicare beneficiary to display continuing  
18 clinical improvement to continue to receive the serv-  
19 ice.

20 (2) DETERMINATION OF NEW COVERAGE CRI-  
21 TERIA.—If the Secretary determines that the cov-  
22 erage criteria described in paragraph (1) unduly re-  
23 stricts the access of any medicare beneficiary to the  
24 services described in such paragraph, the Secretary  
25 shall identify alternative coverage criteria that would  
26 permit a medicare beneficiary who has been diag-

1       nosed with Alzheimer's disease or a related mental  
2       illness to receive coverage for health care services  
3       under the medicare program that are designed to  
4       control symptoms, maintain functional capabilities,  
5       reduce or deter deterioration, and prevent or reduce  
6       hospitalization of the beneficiary.

7       (b) REPORT.—Not later than 1 year after the date  
8       of enactment of this Act, the Secretary shall submit to  
9       the committees of jurisdiction of Congress a report on the  
10      study conducted under subsection (a) together with such  
11      recommendations for legislative and administrative action  
12      as the Secretary determines appropriate.